

GUIDE TO PLACING A COUNTY INITIATIVE ON THE BALLOT



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INTRODUCTION

PURPOSE: This booklet is produced to assist the reader who wants to understand the county initiative process – from preparing and qualifying an initiative, through an election. It is intended only as an introduction to the process and is not intended for use in lieu of legal counsel.

CAUTION: This booklet is for general information only and does not have the force and effect of law, regulation, or rule. In case of conflict, the law, regulation, or rule will apply. Any person or group desiring to start and circulate an initiative petition is strongly advised to contact private legal counsel to guide and advise them through the many steps involved in the process. Interested persons should obtain the most up-to-date information available because of possible changes in law or procedure since the publication of this booklet.

LEGAL REFERENCES: All references in this booklet refer to the California Elections Code unless otherwise indicated. The references reflect the 1994 renumbering of sections of the California Elections Code.

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USE OF COUNTY INITIATIVE

Initiative is the power of the electors to propose a new ordinance, by which they will be governed, or to amend or repeal an existing ordinance. An initiative is placed on the ballot after its proponents (sponsors) have successfully met a series of requirements.

Any proposed ordinance may be submitted to the board of supervisors by filing an initiative petition with the county elections official, signed by not less than the number of voters specified in this article. (§9101)

No ordinance proposed by initiative petition and adopted either by the board of supervisors without submission to the voters or adopted by the voters shall be repealed or amended except by a vote of the people, unless provision is otherwise made in the original ordinance. In all other respects, an ordinance proposed by initiative petition and adopted shall have the same force and effect as any ordinance adopted by the board of supervisors. (§9125)

FILING TO BEGIN INITIATIVE PROCESS

Prior to the preparation or circulation of any initiative petition, the proponents shall file the following documents with the elections official: (§9103)

- Notice of intention
- Written text of the proposed initiative
- Request for ballot title and summary

NOTICE OF INTENTION

The notice shall be in substantially the following form: (§9104)

Notice of Intention to Circulate Petition

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the County of San Bernardino for the purpose of _____.

A statement of the reasons of the proposed action as contemplated in the petition is as follows:

The statement of reasons is optional and must be not more than 500 words.

Include the printed name, signature, and business or residence address of at least one but not more than five proponents.

WRITTEN TEXT OF PROPOSED INITIATIVE

The enacting clause of an ordinance submitted to the voters shall be substantially in the following form: (§9124)

“The people of the County of San Bernardino ordain as follows:”

REQUEST FOR BALLOT TITLE AND SUMMARY

This is a written request, asking that a ballot title and summary be prepared. There is no special form or format required. This is required before the elections official can forward the request to county counsel.

DEPOSIT OF FEES

Any person filing a notice of intention with the county elections official shall pay a fee to be established by the board of supervisors not to exceed two hundred dollars (\$200). The fee in San is \$200.00 and it must be paid at the time the notice of intention is filed.

This fee is refunded to the filer if, within one year of the date of filing the notice of intention, the Registrar of Voters certifies the sufficiency of the petition. (§9103)

PREPARATION OF BALLOT TITLE AND SUMMARY (§9105)

TRANSMIT TO COUNTY COUNSEL

After receipt of a notice of intention to circulate an initiative petition and the required fee, the Registrar of Voters will immediately transmit a copy of the proposed measure to the county counsel.

TIME TO PREPARE AND RETURN

Within **15 days** after the proposed measure is filed, the county counsel shall provide and return to the Registrar of Voters a ballot title and summary for the proposed measure.

CONTENT

The ballot title may differ from any other title of the proposed measure and shall express in 500 words or less the purpose of the proposed measure. In providing the ballot title, the county counsel shall give a true and impartial statement of the purpose of the proposed measure in such language that the ballot title shall neither be an argument, nor be likely to create prejudice, for or against the proposed measure.

TRANSMIT TO PROPONENTS

The Registrar of Voters shall furnish a copy of the ballot title and summary to the proponents of the proposed measure.

CHANGE TO TITLE AND SUMMARY

The proponent may seek a writ of mandate requiring the ballot title or summary prepared by the county counsel to be amended. The court shall expedite hearing on the writ. A peremptory writ of mandate shall be issued only upon clear and convincing proof that the ballot title or summary is false, misleading, or inconsistent with the requirements of Section 9105. (§9106)

PUBLICATION

Upon receipt from county counsel, the Registrar of Voters will transmit the ballot title and summary to the proponent, who must publish it (along with the notice of intention).

WHEN AND WHERE

Publication must take place prior to circulation of the petition, in a newspaper of general circulation published in the county.

FILING PROOF OF PUBLICATION

The proponent must file proof of publication with the Registrar of Voters prior to circulating the petition. (§9105)

PETITION FORMAT/CONTENT

(SEE APPENDIX A)

CIRCULATION OF PETITIONS

Each section of the petition shall include a copy of the Notice of Intention and ballot title and summary (§9108)

WHO CIRCULATES

Proponents may commence to circulate the petition among the registered voters of San Bernardino County after the publication of the Title and Summary and filing of proof of publication. Any person may circulate an initiative petition (§102)

WHO SIGNS

Only a person who is a qualified registered voter of San Bernardino County at the time of signing the petition is entitled to sign it. The number of signatures attached to each section shall be at the pleasure of the person soliciting the signatures (§9020).

WITHDRAWALS

Any voter who has signed the petition shall have their signature withdrawn if they file a written request with the Registrar of Voters office prior to the day the petition is filed. (§103, §9602)

REQUEST FOR REPORT DURING CIRCULATION

The Board of Supervisors may refer the proposed initiative to any county agency for a report on any of the following:

- a) its fiscal impact;
- b) its effect on the internal consistency of the County's general and specific plans including the housing element, the consistency between planning and zoning, the limitations on County actions under §65008 of the Government Code, and Chapters 4.2 (commencing

with §65913) and 4.3 (commencing with §65915 of Division 1 of Title 7 of the Government Code).

c) any other matters the Board of Supervisors request to be in the report.

The report shall be presented to the Board no later than **30 days** after the Registrar of Voters certifies the sufficiency of the petition. (§9111)

SIGNATURE REQUIREMENTS

The exact number of signatures required will be confirmed in writing to proponents by the Registrar of Voters at the time the Ballot Title and Summary is provided.

10% (33,203 – effective until November 2002)

If proponents collect 10% of the entire vote cast in the county for Governor in the last election – then the Board of Supervisors shall either: **1)** pass the ordinance without alteration; or **2)** place the measure on the ballot at the next statewide election (March and November of even-numbered years) occurring not less than 88 days after the date of the order. (§9118)

20% (66,405 – effective until November 2002)

If proponents collect 20% of the entire vote cast in the county for Governor in the last election – then the Board shall either: **1)** pass the ordinance without alteration; **2)** call a special election within 88 and 103 days (if regular election will be held within 180 days, the measure may be consolidated with that regular election: March, April and November of even-numbered years or March, June and November of odd-numbered years; or **3)** order a report pursuant to §9111 and once the report is presented, the Board shall either adopt the ordinance within 10 days or order an election. (§9117, §9116)

FILING OF PETITION

WHEN

Signatures shall be secured and the petition presented for filing to the Registrar of Voters Office within **180 days** from the date of receipt of the Title and Summary, or after receipt of an amended Title and Summary or both, whichever occurs later. (§9110) All sections of the petition shall be filed at one time. Once filed, no petition shall be amended except by court order. (§9113)

WHO CAN FILE

The petition shall be filed by the proponents or by any person or persons authorized in writing by the proponents.

VERIFICATION OF SIGNATURES

EXAMINING THE PETITION

When petition is filed, the Registrar of Voters will determine the total number of signatures affixed to the petition. (§9113)

- If the number does not equal or exceed the minimum number of signatures required, no further action will be taken.
- If the number is equal to or in excess of the minimum number of signatures required, the petition will be examined. Within 30 days from the date of filing of the petition, excluding weekends and holidays, the petition will be examined and signatures verified.

CERTIFYING RESULTS OF EXAMINATION

If the petition is found sufficient, the Registrar of Voters will certify the results to the Board of Supervisors at the next regular meeting. (§9115) Petitions are retained in accordance with law. However, they are not public documents. (G.C. §6253.5)

If the petition is found not sufficient, the Registrar of Voters will take no further action. However, petitions will be retained and proponents will have 21 days in which to begin an exam to determine why signatures were not sufficient. (G.C. §6253.5)

ELECTION

Please contact Registrar of Voters Office if further information is needed on the election process and deadlines.

If an election is held, ordinances are passed with a majority vote of the voters and shall be considered adopted upon the date the vote is declared by the Board of Supervisors. The ordinance shall go into effect 10 days after that date. (§9122)

FINANCIAL DISCLOSURE

POLITICAL REFORM ACT

Proponents of initiative, referendum or recall petitions may have disclosure requirements under the Political Reform Act, Government Code §81000 et seq.

IF YOU PLAN TO RAISE OR SPEND MONEY

- | | |
|--------|--|
| First | Obtain a copy of Information Manual D – Campaign Provisions of the Political Reform Act – from the Registrar of Voters office. |
| Second | <p>File a 410 – Statement of Organization – with the Secretary of State Political Reform Division and the Registrar of Voters office.</p> <p>Any person who receives contributions totaling \$1,000 or more within a calendar year, qualifies as a recipient committee and – within 10 days of qualifying – must file a Form 410 with the Secretary of State and the county.</p> <p>A Form 410 may be filed prior to qualifying. Upon receipt of the 410, the Secretary of State will issue an identification number, which must be included on all campaign disclosure forms.</p> |
| Third | <p>Be prepared to file 460 (long form) or 450 (short form) Pre-Election Statements and Semi-Annual statements.</p> <p>These reports detailing your committee(s) contributions and expenditures are filed at specified times prior to and following the election, There are also various special</p> |

reports that must be filed to amend forms or to provide supplemental information. Know the deadlines and the type of forms you must file.

Election Department staff will provide you with a calendar. For technical advice on completing the forms, call the Fair Political Practices Commission at 916-322-5660 / FAX: 916-622-0886 or visit their website at www.fppc.ca.gov/fppc/

Fourth File a Form 410 to terminate the committee upon completion of your initiative efforts.

MASS MAILING REQUIREMENTS

- a) Except as provided in subdivision [b], no committee shall send a mass mailing unless the name, street address, and city of the committee are shown on the outside of each piece of mail in the mass mailing and on at least one of the inserts included within each piece of mail of the mailing in no less than 6-point type, which shall be in a color or print, which contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the organization's address is a matter of public record with the Secretary of State.
- b) If the sender of the mass mailing is a single committee, the name, street address, and city of the committee need only be shown on the outside of each piece of mail.
- c) If the sender of a mass mailing is a controlled committee, the name of the person controlling the committee shall be included in addition to the information required by subdivision [a].
Government Code §84305, Elections Code §16

Appendix A

FORMAT OF AN INITIATIVE PETITION

- The format on the reverse side is printed on 8 ½ " x 11". Most petitions are actually printed on 8 ½ " x 14" to allow more room for signatures.
- The margin across the top is one inch. Side & bottom margins can be a minimum of ½". The space next to signatures for "official use only" must be one inch. (§100)
- Each petition section shall have attached to it an affidavit to be completed by the circulator. (§104, §9109). This is the Declaration of Circulator as illustrated on the reverse side.
- Text of measure and notice of intention and notice to the public need to go on every page on which signatures are to appear.

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The County Counsel of the County of San Bernardino has prepared the following title and summary of the chief purpose and points of the proposed measure:

Notice of Intention to Circulate Petition
Insert ballot title and summary here. Insert copy of each section of the petition above the text of the proposed measure and across the top of each page of the petition on which signatures are to appear, in roman boldface type not smaller than 12 point. It shall be clearly separated from the text of the measure and it shall be 500 words or less. (9105)
Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the County of San Bernardino for the purpose of _____. A statement of the reasons of the proposed action as contemplated in the petition is as follows: _____.

Insert the purpose. Including reasons is optional. The limitation on the statement of reasons is 500 words.

Note: Each section of the petition shall bear a copy of the Notice of Intention. (9108) The notice shall contain the printed name, signature, and business or residence address of at least one, but not more than five, proponents. (9104)

This notice must be printed in 12-point type, prior to the portion for voters' signatures. (101)

	PRINT YOUR NAME	RESIDENCE ADDRESS ONLY	ONLY
1.	YOUR SIGNATURE	CITY ZIP	
2.	YOUR SIGNATURE	CITY ZIP	

DECLARATION OF CIRCULATOR

DECLARATION OF PERSON CIRCULATING SECTION OF RECALL PETITION
(MUST BE IN CIRCULATOR'S OWN HANDWRITING)

I _____, declare:
(Print Name)

- My residence address is _____, in _____
(Street Address) (City) (County)
County, California, and I am a registered voter in _____.
- I personally circulated the attached petition for signing.
- I witnessed each of the appended signatures being written on the petition and to my best information and belief, each signature is the genuine signature of the person whose name it purports to be; and
- The appended signatures were obtained between the dates of _____ and _____, inclusive.
(Starting Date) (Ending Date)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____ at _____, California.
(Date) (City or Community Where Signed)

(Signature)

APPENDIX B

SAMPLE CALENDAR OF EVENTS

DAYS BEFORE ELECTION

ACTIVITY

347*	Proponents file with the Registrar of Voters the following: a) Notice of Intention; b) Statement of Reasons, not exceeding 500 words (permissive/not mandatory); c) Text of proposed initiative; d) Their names and addresses. (§9103, §9104)
347-332*	Registrar of Voters delivers Notice of Intention to County Counsel. County Counsel to prepare Ballot Title and Summary within 15 days. (§9105)
332-325*	Registrar of Voters delivers Ballot Title and Summary to proponents. Proponents to publish Notice of Intention, and the Title and Summary as prepared by County Counsel, and file proof of publication with the Registrar of Voters office. (§9105b)
324*	Proponents may commence to circulate the petitions after publication of the Notice of Intention and the Title and Summary. (§9108) During the circulation of the petition, or before adopting the ordinance or calling an election, the Board of Supervisors may refer the proposed initiative measure to any county agency or agencies for a report. The report shall be presented to the Board within the time prescribed by the Board, but no later than 30 days after the Clerk certifies the sufficiency of the petition. (§9111)
144	Last day to file petitions (180 days from receipt of Title and Summary from County Counsel. (§9101)
145	Last day for Registrar of Voters office to verify signatures. (30 days from date of filing excluding Sat/Sun/holidays) (§9114, §9115) Registrar of Voters certifies results of sufficient petition to Board of Supervisors at next regularly scheduled meeting of the board.
88	Last day Board of Supervisors to either adopt the ordinance or call election. (§9116, §9117, §9118)

* These dates are approximate. Actual dates will depend on the timing of the proponents completing filings and publication, completion of the Title and Summary prepared by the County Counsel, and the number of days proponents take to circulate the petition.